

INCOME TAX REFERENCE No 43 of 1987

Hon'ble MR. JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR. JUSTICE D.A.MEHTA Sd/-

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

C D R LAXMIDEVI

1. INCOME TAX REFERENCE No. 43 of 1987
MR BB NAYAK FOR MR MANISH R BHATT for Appellant.
NOTICE SERVED for Respondent No. 1

Date of decision: 28/08/2001

ORAL JUDGEMENT

1. The Income Tax Appellate Tribunal, Ahmedabad, Bench "A" has referred the following two questions for assessment years 1979-80 and 1980-81 which are common for both the years for the opinion of this Court :

"1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that on a plain reading of the relevant provisions show that in the context in which it has been used the expression "an employee or any other person" occurring in Sec.37(3) does not include the assessee herself ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the Rules 6D of the Income-tax Rules, 1962 were not applicable in relation to the travelling expenses incurred by the assessee ?"

2. Mr.B.B.Nayak, learned Counsel appeared for the appellant-revenue while there is no appearance on behalf of the respondent-assessee though served. In view of the fact that the identical issue has already been decided by this Court in C.I.T. vs. N.C.Mehta in I.T.R.No.98/86 on 4/7/2001 it is not necessary to state the facts in detail.

3. In light of the decision of this Court in C.I.T. vs. N.C.Mehta (Supra) we hold that the Tribunal was right in law in holding that the purpose of computing the figure of disallowable portion of travelling expenses incurred by the assessee under section 37(3) of the Income Tax Act,1961 read with Rule 6D of the Income Tax Rules, 1962 the phrase "employee or any other person" would not take within its sweep the assessee herself.

4. The questions referred to us are therefore answered in the affirmative i.e. in favour of the assessee and against the revenue. The Reference is disposed of accordingly with no order as to costs.

Sd/- Sd/-

(M.S.Shah, J) (D.A.Mehta, J)

m.m.bhatt